

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

**SECURITIES AND EXCHANGE COMMISSION,**

**Plaintiff,**

**v.**

**AMERINDO INVESTMENT ADVISORS INC.,  
AMERINDO INVESTMENT ADVISORS, INC.,  
AMERINDO ADVISORS UK LIMITED,  
AMERINDO MANAGEMENT INC.,  
AMERINDO TECHNOLOGY GROWTH FUND, INC.,  
AMERINDO TECHNOLOGY GROWTH FUND II, INC.,  
TECHNO RAQUIA, S.A.,  
ALBERTO W. VILAR, and  
GARY ALAN TANAKA,**

**Defendants.**

**05 Civ. 5231 (RJS)**

**ECF CASE**

**DECLARATION OF NEAL JACOBSON IN SUPPORT OF  
MOTION BY SECURITIES AND EXCHANGE COMMISSION  
FOR PARTIAL SUMMARY JUDGMENT UNDER FED R. CIV. P. 56**

Neal Jacobson declares under penalty of perjury as follows:

1. I am an attorney employed by the Securities and Exchange Commission (the “Commission”) and am assigned to the Commission’s New York Regional Office in New York, New York. I submit this declaration in support of the Commission’s Motion for Partial Summary Judgment Under Fed. R. Civ. P. 56 Against Defendants Alberto W. Vilar and Gary Alan Tanaka.

2. Attached hereto as Exhibit A is a copy of the Commissions’ May 25, 2012, Second Amended Complaint filed in this action.

3. Attached hereto as Exhibit B is a copy of the August 15, 2006 Third Superseding Indictment filed in the case *United States of America v. Alberto William Vilar and Gary Alan Tanaka*, S3 05-Cr. 621 (RJS) (the “Criminal Case”).

4. Attached hereto as Exhibit C are selected pages from the transcript of the trial in the Criminal Case.

5. Attached hereto as Exhibit D are copies of the following selected trial exhibits introduced in the Criminal Trial:

Exhibit D1 is Government Exhibit 345.

Exhibit D2-D3 is Government Exhibit 2112.

Exhibit D4-D6 is Government Exhibit 3308-6.

Exhibit D7 is Government Exhibit 548.

Exhibit D8 is Government Exhibit 3308-1A.

Exhibit D9-D12 is Government Exhibit 678.

6. Attached hereto as Exhibit E is a copy of a page from a February 25, 2000 account statement for Techno Raquia, S.A., produced to the Commission staff by Bear Steans & Co., Inc.

7. Attached hereto as Exhibit F are the following selected pages from orders entered by the Court in the Criminal Case:

Exhibit F1-F4 is a copy of the October 26, 2009 Post-Conviction Restraining Order.

Exhibit F5-F11 is a copy of the February 8, 2010 Criminal Judgment against Alberto Vilar.

Exhibit F12-F17 is a copy of the February 10, 2010 Criminal Judgment against Gary Tanaka.

Exhibit F18-F21 is a copy of the Court’s April 7, 2010 Memorandum regarding forfeiture and restitution.

Exhibit F22-F24 is a copy of the April 7, 2010 Order of Restitution against Alberto Vilar.

Exhibit F25-F27 is a copy of the April 7, 2010 Order of Restitution against Gary Tanaka.

Exhibit F28-F31 is a copy of the April 7, 2010 Order of Forfeiture against Alberto Vilar.

Exhibit F32-F35 is a copy of the April 7, 2010 Order of Forfeiture against Gary Tanaka.

Exhibit F36-F37 is a copy of the Court's November 9, 2010 Order regarding forfeiture.

Exhibit F38-F39 is a copy of pages 1 and 12 of the Court's August 26, 2010 Memorandum and Order regarding the Government's motion to amend the forfeiture judgments to include substitute property.

8. Attached hereto as Exhibit G are selected pages from the February 5, 2010 sentencing hearing for Alberto Vilar and Gary Tanaka in the Criminal Case.

9. Attached hereto as Exhibit H is a selection of correspondence from the Office of the United States Attorney for the Southern District of New York ("SDNY") to the Court:

Exhibit H1-H13 is a copy of the SDNY's March 1, 2010 letter to the Court setting forth the Government's theory of restitution and forfeiture in the Criminal Case with attached Exhibit A.

Exhibit H14-H15 is a copy of the SDNY's March 28, 2012 letter to the Court regarding remand of the forfeiture orders on appeal.

Exhibit H16-H20 is a copy of the SDNY's December 30, 2011 letter to the Court and the Honorable Laura Taylor Swain regarding the value of the substitute assets subject to forfeiture in the Criminal Case.

10. Attached hereto as Exhibit I is a copy of the May 10, 2010 Answer of Defendant Alberto W. Vilar to the Amended Complaint filed in this action [Docket # 125].

11. Attached hereto as Exhibit J is a selection of correspondence from Gary Tanaka and Ms. Vivian Shevitz, Esq. to the Court:

Exhibit J1-J2 is a copy of the January 5, 2012 letter from Gary Tanaka to the Court and the Honorable Laura Taylor Swain [Docket # 180].

Exhibit J3-J9 is a copy of the March 16, 2012 letter from Ms. Vivian Shevitz to the Honorable Laura Taylor Swain, attaching a copy of the February 27, 2012 letter from Gary Tanaka to the Court and the Honorable Laura Taylor Swain.

Exhibit J10-J14 is a copy of the December 31, 2011 letter from Ms. Vivian Shevitz to the Court and the Honorable Laura Taylor Swain.

Exhibit J15-J18 is a copy of the March 20, 2012 letter from Ms. Vivian Shevitz to the Court.

Exhibit J19-J28 is a copy of the July 27, 2012 letter from Ms. Vivian Shevitz to the Court.

12. Attached hereto as Exhibit K are selected pages from the Brief of Appellant Alberto Vilar before the United States Court of Appeals for the Second Circuit in *United States v. Alberto Vilar and Gary Tanaka*, 10-521(L).

13. Attached hereto as Exhibit L are selected pages from the January 27, 2012 submission by Ms. Vivian Shevitz filed with the Court [Docket # 190].

14. Attached hereto as Exhibit M is a copy of Gary Tanaka's April 24, 2002 sworn statement and cover letter provided to an arbitration panel of the American Arbitration Association and filed in a case pending in the Supreme Court of New York, *Cristov v. Amerindo Investment Advisors Inc.*, Index No. 100530/2003.

15. Attached hereto as Exhibit N is a copy of an email produced voluntarily to the Commission staff by Paul Marcus, an ATGF investor.

16. On July 13, 2012, I entered the forfeiture amounts for the Mayers, Tara Colburn, Graciela Lecube-Chavez, Robert Cox and Lily Cates calculated by the SDNY in Exhibit H1-H13 into the Commission's prejudgment interest calculator. Attached hereto as Exhibit O are printouts reflecting the accrual of prejudgment interest on those amounts from the date the monies were invested through October 26, 2009.

Dated: New York, New York  
August 3, 2012

/s/ Neal Jacobson  
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